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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,621	11/30/2001	Masato Takahashi	3404/0K075	4928

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/998,621	TAKAHASHI ET AL.	
	Examiner	Art Unit	
	Robin A. Hylton	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-11-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 11, 2004 has been entered.

Specification

2. The disclosure is objected to because of the following informalities: there are references in the specification to "Figure 19" as set forth in amendments filed June 3, 2003. Proposed drawing Figure 19 has not been approved by the examiner since it introduces new matter into the originally filed disclosure. Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "fitted element" and "fitting element", thus making the language of claim 1 confusing.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, positioning grooves located on an underside of the container body or the feature canceled from the claim. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings **will not** be held in abeyance.

Claim Rejections - 35 USC § 112

5. Claims 1,3-10, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the obverse and reverse sides" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the protruding part" in line 12. There is insufficient antecedent basis for this limitation in the claim since both an obliquely projecting flexible protruding part and a protruding part on the endless portion have been set forth previously in the claim.

Claim 1 recites the limitation "the contact surface of the open front" in lines 14-15. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the opening face of the fitted element" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the interior side of the fit-holding portion" in line 6. There is insufficient antecedent basis for this limitation in the claim since no fit-holding portion has been previously set forth.

Claims 5-8 recites the limitation "the direction of squeezing" in line 2. There is insufficient antecedent basis for this limitation in the claims.

Claims 5-8 recites the limitation "the protruding part" in line 2. There is insufficient antecedent basis for this limitation in the claim since both an obliquely projecting flexible protruding part and a protruding part on the endless portion have been set forth previously in claim 1.

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Claim 9 recites the limitations "the contact surface of the door element" in line 12 and "the contact surface of the opening face" in line 13. There is insufficient antecedent basis for these limitations in the claim.

The structure and/or structural relationships between the parts are not clearly set forth in the claims.

- For instance, how does one determine the "obverse" and "reverse" sides of the endless portion? Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.
- In claim 5, the coupling feature has not been previously set forth on both the opening face of the fitted element or the fitting element and the interior side of the fit-holding portion. Thus, how does not determine which is higher?
- In claims 5-8, the limitation of "the protruding part is set curved inwardly" contradicts the previously set forth limitation of projecting "outwards" from the endless portion.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimizu (JP Publication No. 57-34141).

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The sealing element comprises an endless portion 4, a coupling feature 1, and a flexible protruding part 6, or 7, for sealing a fitted element 13 and a fitting element 10.

To the degree claims 3 and 5-8 are understandable in view of the rejection under 35 USC 112, 2nd paragraph above, these claims are also anticipated by Shimizu.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art container depicted in figures 1 and 2 of the instant invention in view of Hyobu and Shimizu.

The prior art container teaches a sealing element having a non-obliquely aligned sealing element housed in a compartmentalized inner wall of a fit-holding portion. The prior art container does not teach the sealing element is obliquely arranged, a coupling feature having a projection on the endless portion of the sealing element, or positioning grooves on an underside of the container body.

Hyobu teaches it is known to provide a container body similar to that of the prior art container depicted in figures 1 and 2 of the instant application with positioning grooves on an underside of the container body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of positioning grooves on an underside of the container body of the prior art container depicted in figures 1 and 2 of the instant application. Doing so allows the container body to be aligned and supported by other structure.

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Shimizu teaches it is known to provide a sealing element obliquely protruding from an endless portion thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of obliquely extending the sealing element from the endless portion of the sealing element. Doing so allows for a more hermetic seal between the container body and door during pressure changes within the container.

Regarding the tapered end of the protruding part, the prior art teaches tapering the protruding part to narrow at the distal end.

Response to Arguments

10. Applicant's arguments with respect to claims 1,3-10, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

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Typed or printed name of person signing this certificate

Signature_____

Date_____


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Technology Center 3700 Customer Service Office at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
June 11, 2004


Robin A. Hylton
Primary Examiner
GAU 3727